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IN THE HIGH COURT OF CHHATTISHGARH AT BILASPUR

W.P. 148 2004

PETITIONER ------- Bhagwan Singh Rajpoot s/o Shri Lal Bhadur Rajpoot , Aged about 24 years , Resi. Of Village Sardha , Tah. Lormi , Distt. – Bilaspur (C.G.)

VERSUS

RESPONDENTS ———1. State of Chhattishgarh , through Secretary Panchayat and Social welfare department D.K.S. Bhawan , Raipur(C.G).

2. Collector Bilaspur , Distt. Bilaspur (C.G.)
3. District Education officer Bilaspur (C.G.)
4. Block education Officer Lormi , Distt. Bilaspur (C.G.)
5. Chief Execute officer , Janpad Panchayat Lormi , Distt. Bilaspur (C.G.)

P. R. No. 149 Dy.
Presented by Shri Hamida Siddiqui
dated 14.1.04

RECEIVED-COPY
14-1-04
Clerk to A. G. Bilaspur

WRIT PETITION UNDER ARTCLES 226/227 OF THE CONSTITUTION OF INDIA IN THE NATURE OF MANDAMUS AND CERTIORARI .

(1) **PARTICULARS ABOUT THE PETITIONER :**

The details of the Petitioner are shown in the cause title

(2) **PARTICULARS ABOUT THE RESPONDENTS :**

The details of the Respondent are shown in the cause title.

Ms. Adv.

AFR

(105)

HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION NO.148 OF 2004

Petitioner	:	Bhagwan Singh Rajpoot
	versus	
Respondents	:	State of Chhattisgarh and others

Present : Mrs. Hamida Siddique, counsel for the petitioner.
Mr. Sushil Dubey, Government Advocate for respondents No.1 to 4.
Mr. Arun Sao, counsel for respondent No.5.

ORDER
(Passed on 5th Day of December, 2006)

By this petition filed under Articles 226/227 of the Constitution of India, the petitioner seeks compliance of the order dated 9-1-2003 (Annexure P-1) passed by the Chief Executive Officer, District Panchayat, Bilaspur recommending the appointment of the petitioner as Contract Teacher Class-II under the Janpad Panchayat, Lormi, District Bilaspur.

2. The petitioner belongs to handicapped category. Pursuant to an advertisement, he applied for and appeared for the test and interview for appointment to the post of Contract Teacher Class-II under the Janpad Panchayat Lormi, District Bilaspur. According to the petitioner, an irregularity was committed in selection of the candidates

for the said appointment. The said irregularity in the selection process was enquired into by the District Education Officer, Bilaspur. The Chief Executive Officer, District Panchayat, Bilaspur, by letter dated 9-1-2003 (Annexure P-1) addressed to the Chief Executive Officer, Janpad Panchayat Lormi, communicated that there was an irregularity in the select-list of Contract Teachers Class-II as reservation roster was not followed correctly. Accordingly, it was directed to cancel the appointment on the basis of the select-list and appoint seven other candidates including the petitioner from the waiting-list.

3. Pursuant to that order, the Chief Executive Officer, Janpad Panchayat Lormi cancelled the earlier appointment on the basis of the select-list, but did not appoint any candidate from the waiting-list.

4. Mrs. Hamida Siddique, learned counsel appearing for the petitioner would contend that once the appointment of the candidates on the basis of the select-list has been cancelled, the petitioner, being in the waiting-list, has right to be appointed as Contract Teacher Class-II. Accordingly, this petition was filed seeking a writ of mandamus/direction to the respondents to issue appointment order in favour of the petitioner.

5. Mr. Sushil Dubey, learned Government Advocate appearing for respondents No.1 to 4 and Mr. Arun Sao, learned counsel appearing for respondent No.5 would submit that the petitioner has no right to appointment on the basis of his name found in the waiting-list. Secondly, the letter dated 9-1-2003 (Annexure P-1) of the Chief Executive Officer, District Panchayat, Bilaspur addressed to the Chief

Executive Officer, Janpad Panchayat Lormi is not binding and does not confer any right on the petitioner to seek appointment on the post of Contract Teacher Class-II.

6. Having heard learned counsel appearing for the parties and having perused the pleadings and the records appended thereto, it is evident that initially the petitioner's name was in the waiting-list. Since the appointment of selected candidates in the merit-list was cancelled on the ground of violation of reservation roster, the petitioner cannot claim appointment to the post of Contract Teacher Class-II as a matter of right on the basis of the letter dated 9-1-2003 (Annexure P-1) of the Chief Executive Officer, District Panchayat, Bilaspur.

7. It is well settled principle of law that the candidates, on their selection, do not acquire any right to the post under the relevant recruitment rules and the State is under no legal duty to fill-up any of the vacancies. (See ***Shankarsan Dash*** **vs.** ***Union of India***[1]).

8. In ***K. Jayamohan*** **vs.** ***State of Kerala and another***[2], the Supreme Court observed in para 5 as under :-

> "5. It is settled legal position that merely because a candidate is selected and kept in the waiting list, he does not acquire any absolute right for appointment. It is open to the Government to make the appointment or not. Even if there is any vacancy, it is not incumbent upon the Government to fill up the same. But the appointing authority must give reasonable explanation for non-appointment. Equally, the Public Service

> Commission/recruitment agency shall prepare waiting list only to the extent of anticipated vacancies. In view of the above settled legal position, no error is found in the judgment of the High Court warranting interference."

9. In the facts of the instant case, the petitioner was not in the select-list. However, on account of cancellation of the recruitment from the select-list, the candidates including the petitioner from the waiting-list were recommended by the Chief Executive Officer, District Panchayat, Bilaspur to the Chief Executive Officer, Janpad Panchayat Lormi. It is admitted fact that no candidate from the waiting-list was appointed to the post. Discrimination by appointing on the basis of pick and choose or a junior was appointed was neither alleged in this petition nor it is the case of the petitioner.

10. For the reasons aforestated and in view of the well settled principle of law that the selectee has no right to the post, this petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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1 (1991) 3 SCC 47

2 AIR 1997 SC 2619

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